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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/719,533	07/10/2001	Chong Jin Oon	U 013108-9	8503
140	7590	08/23/2005	EXAMINER	
LADAS & PARRY 26 WEST 61ST STREET NEW YORK, NY 10023			LUCAS, ZACHARIAH	
			ART UNIT	PAPER NUMBER
			1648	
DATE MAILED: 08/23/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b>	Application No. 09/719,533	Applicant(s) OON ET AL.	
	Examiner Zachariah Lucas	Art Unit 1648	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 03 August 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: 3,4,9,10 and 12-14.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 1.  
Claim(s) withdrawn from consideration: 15-24 and 27-74.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER


11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_.  
13. ☒ Other: See, the attached.

Continuation of 5. Applicant's reply has overcome the following rejection(s): The amendments have overcome the rejections of claims 25 and 26 under 35 U.S.C. 112 second paragraph, the rejection of claims 2, 5, 8, 10, 11, 25, and 26 under 35 U.S.C. 102(b), and the rejections of claims 2, 5-8, 10-14, 25, and 26 under 35 U.S.C. 103(a). The amendments have also overcome the objections to the specification and to claim 4 for being improperly dependent.

Continuation of 11. does NOT place the application in condition for allowance because: The submitted Statement of Biological Culture Deposit lacks a copy of the statement of viability executed by the depository. Thus, the statement does not meet the requirements of a deposit under 37 CFR 1.807. The rejection of claim 1 under 35 U.S.C. 112 first paragraph is therefore maintained.

With respect to the Applicant's submission of the a new sequence listing, it is noted that the newly submitted sequence listing still identifies SEQ ID NO: 6 as having 35 nucleotides, whereas the sequence actually has 36 sequences. Thus, the objection to the sequence listing is maintained. Further, Applicant's submission of a new computer readable form of the sequence listing does not overcome the objections to the CRF for the reasons indicated in the attached RAW SEQUENCE LISTING ERROR REPORT.

In addition, it is also noted that the application is not in condition for allowance due to the presence of withdrawn claims in the application to other inventions.

  
JAMES HOUSEL 8/19/05  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1600

